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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,820

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Atsushi Fujioka

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EXAMINER

RAMPURIA, SHARAD K

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

10/28/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,820	Applicant(s) FUJIOKA ET AL.	
	Examiner SHARAD RAMPURIA	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 31-53 and 57 is/are allowed.
- 6) ☒ Claim(s) 54-56, 58 and 59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the **first** paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 59 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the **written description requirement**. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 59, the amended limitation, “A computer readable medium.” The applicant's specification fails to support such limitation.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 59 rejected under 35 U.S.C. 101, because of non-statutory as describe following:

Regarding claim 59, it is clearly calls for “a program” comprising “code means”.....

As best can be support by the specification (¶ 0026), “a software program” is actually “a software/computer program” which does not fall within any of the enumerated statutory categories because it is an Abstract Idea, *and the invention as claimed does not produce a useful, concrete, and tangible result*. Therefore, claim 59 is nonstatutory. (Please see MPEP 2106.01 [R-6]).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 54-56 & 58 are rejected under 35 U.S.C. 102 (b) as being anticipated by **Aoki, Yutaka et al.** [US 20010044315 A1].

As per claim 54, **Aoki** teaches:

A high-speed moving object that moves along a predetermined path of movement,
(Abstract) said high-speed moving object comprising:

at least one image capturing unit operable to capture image data of the inside of a car in said high-speed moving object; a first communication unit operable to transmit the image data captured by said image capturing unit over radio waves of a first frequency, when control data

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indicating a transmission timing is received from any one of a plurality of base stations installed along the predetermined path of movement of said high-speed moving object over radio waves of the first frequency; and a second communication unit operable to transmit the image data captured by said image capturing unit over radio waves of a second frequency, when control data indicating a transmission timing is received from any one of the plurality of base stations over radio waves of the second frequency. (§ 0045, 0049)

Claims 55-56 are the **apparatus** claims, corresponding to **apparatus** claim 54 respectively, and rejected under the same rationale set forth in connection with the rejection of claim 54 respectively, above.

As per claim 58, **Aoki** teaches:

A construction method of a wireless communication area for constructing the wireless communication area where image data transmitted from a high-speed moving object that moves along a predetermined path of movement can be received, (Abstract) said construction method comprising

alternately arranging, along the predetermined path of movement of the high-speed moving object, a plurality of first wireless communication areas where image data transmitted over radio waves of a first frequency can be received (§ 0045, 0049) and a plurality of second wireless communication areas where image data transmitted over radio waves of a second frequency can be received, so that the areas are partly overlapped. (§ 0041)

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

Claims 31-53, 57 are patentable.

The entire prior-art combination **disclosed** (in previous office-action of this case) fails to anticipate or render the claimed limitations in combination with all the recited limitations of the disclosed independent claims obvious (**viewed the entire claim as a whole**), over any of the prior art of record, alone or in combination.

Claim 59 is also patentable if 101, 112 concerns are completed.

Response to Amendments & Remarks

Applicant's arguments with respect to claims 54-56 & 58 have been fully considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F. (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

EBC@uspto.gov

/Sharad Rampuria/
Primary Examiner
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